



**DEPARTMENT OF VETERANS AFFAIRS
OFFICE OF RESOLUTION MANAGEMENT**

Written Affidavit of Timothy Graham
In the Matter of the EEO Complaint of Discrimination filed by

Pauline Velez)	
Complainant)	
)	
v.)	Case No. 200P-0612-2018106247
)	
James L. Wilkie, Secretary)	
Department of Veterans Affairs)	
810 Vermont Avenue, NW)	
Washington, DC 20420)	
Respondent)	
)	
Facility: Northern California HCS)	
)	

The accepted claim under investigation is:

Whether Complainant was discriminated against based on national origin (Hispanic), sex and reprisal (opposition to discrimination), when Timothy Graham, Associate Director, removed her from her assignment as Site Manager for the VA Northern California Health Care System Outpatient Clinic in Martinez, CA on August 20, 2018.

(SEE BELOW FOR RELATED EVENTS AND QUESTIONS)

I, Timothy Graham, solemnly swear/affirm that the responses and documents I provide in response to the following questions are true and complete to the best of my knowledge and belief.

Background Questions:

1. Please write your full legal name. Timothy Hugh Graham
2. Your Position/Title? Associate Director, East Bay Division, VA Northern California Health Care System
3. Location and date of your present assignment? VA Northern California Health Care System, Martinez, California. Entrance on duty date for current position was November 13, 2016.
4. Are you a supervisor? Yes.

Initials 

5. Are you now, or have you ever been in Complainant's chain of command? If yes... From what dates? Yes, I served in a supervisory capacity to complainant for her site management role from November 13, 2016 until August 20, 2018.
6. What is your National Origin? Caucasian
 - a. Please state the National Origin you believe Complainant to be. How and When did you learn of this? Hispanic. I learned of complainant's national origin when I met her in person, on November 15, 2016, at which time she voluntarily provided me with her familial background.
7. What is your Sex? Male
 - a. Please state the Sex you believe Complainant to be. How and When did you learn of this? Female. I became aware of complainant's sex on November 15, 2016, during my first face-to-face meeting with complainant, in which she voluntarily provided her familial background.
8. Do you have past EEO activity? No.
 - a. Please state your knowledge of Complainant's EEO activity. How and When did you learn of this? I have general awareness of a prior EEO between the complainant and the United States Air Force at David Grant Medical Center. I do not know the details of the EEO complaint. I learned about the prior compliant from the complainant during mediation on January 3, 2019. I am not aware of any other EEO activity of the complainant.

Claim Specific Questions:

Whether Complainant was discriminated against based on national origin (Hispanic), sex and reprisal (opposition to discrimination), when Timothy Graham, Associate Director, removed her from her assignment as Site Manager for the VA Northern California Health Care System Outpatient Clinic in Martinez, CA on August 20, 2018.

- Please state your involvement/knowledge of the above listed event? I was the management official who removed the duties of Site Manager from the complainant.
- Please state the justification for Complainant having Complainant's assignment removed from her? To understand the nature of this assignment, an organizational history is important. Following the closure of the Martinez VA Medical Center, the current VA Northern California Health Care System was identified as the Northern California System of Clinics, composed of Community Based Outpatient Clinics.

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The Director at that time determined that each of the clinics should have a Site Manager. The System of Clinics was comprised of approximately 1,600 employees. Over time, a hospital was built in Sacramento and a Community Living Center (CLC) was built at Martinez. During this time of growth, the health care system hired two Associate Directors, whose primary responsibility is managing operations for the Health Care System's two largest sites at Sacramento and Martinez. Since that time the health care system has also grown in staff to approximately 3,900 employees. The complainant has served in a collateral capacity as the Site Manager for the Martinez Outpatient Clinic since the early 1990's when the Northern California System of Clinics was created. The complainant has never been under a formal position description for the Site Manager role, nor has she been compensated for this responsibility. The position for which the complainant is formally assigned is the Assistant Chief of Surgery Service for the East Bay Division. The Assistant Chief of Surgery position is the position that the complainant is compensated as a Tier 2 physician on. The change in assignment issued on August 20, 2018, clearly delineates that the complainant's salary or formal position as Assistant Chief of Surgery will not be impacted. The duties of a site manager position are administrative in nature and do not require a physician. These administrative duties are those which are typically managed by the Associate Director's office for the health care system, to include space management and overall day-to-day operations of the health care system. There are no instances, across all VHA facilities, where a health care system employs a site manager where there is a member of the senior executive team present. The action alleged by the complainant was a business decision to utilize physician capacity where it is needed most: to improve quality of care for veterans, managing the surgical service functions and to provide direct patient care to veterans. Compounding those clinical responsibilities with administrative tasks not related, in any way, to the complainant's formal position description is not representative of a good steward of taxpayer funds. Health care systems routinely hire clinical staff to perform clinical functions. Complainant subsequently requested that her title be changed to "Chief Medical Officer", which is also typically not a position that a community-based outpatient clinic employs. The role of Chief Medical Officer for a health care system resides with the Chief of Staff. VA Northern California employs both a Chief of Staff and a Deputy Chief of Staff who serve in the role of managing clinical operations and interfacing across service lines to address patient care issues. As reiterated to the complainant in my September 27, 2018 response to complainant's grievance, it is not the expectation that the complainant will either manage or have direct oversight of all clinical functions at the Martinez campus, but that she will work with other Assistant Chiefs, Clinical Leads and Service Chiefs in a collaborative manner to resolve complex clinical issues as they arise. This is the same expectation that we set for every Service Chief and Assistant Chief.

- Did Complainant have any other options available to her, other than having her assignment removed? No.

Initials



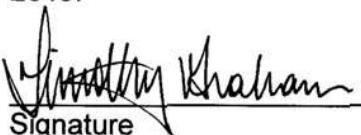
- Was Complainant given advance-warning of the impending removal of her duties? No, although complainant has stated a number of times the previous Associate Directors had similar discussions with her regarding elimination of the Site Manager function based on the same explanation that was provided to complainant.
- Was a fact-finding conducted, leading to the removal of Complainant's duties? No.
 - If yes, please state the recommendation from the fact-finding.
 - Please provide a copy of the fact-finding investigation.
- Given similar circumstances, would all of Complainant's colleagues have been treated in this same manner? Yes.
- Based on the issues listed in this complaint, did you intend or witness any discrimination towards Complainant based on her National Origin, Sex or EEO activity? No.

PLEASE NOTE THAT ORM RESERVES THE RIGHT TO SUPPLEMENT OR ASK ADDITIONAL QUESTIONS AS THE INVESTIGATION REQUIRES.

The above information has been furnished without a pledge of confidence and I understand that it may be shown to any interested party[ies] with a need to know for this complaint. This includes but is not limited to VA, EEOC, contracting officials with a need to know during the course and scope of the informal and formal EEO process including administrative procedures and litigation as applicable and mandated by law.

Please respond by Friday, April 5, 2019. Please initial and sign as shown on the document. If you have questions please let me know. Please return by e-mail with your digital signature and typed answers. If you prefer you can print your completed answers, sign and initial each page, and return by e-mail (PDF Format) or fax as desired.

This statement is made under penalty of perjury on this 15th day of May, 2019.


Signature

Initials 

From: Graham, Timothy
Sent: Friday, May 10, 2019 3:12 PM
To: Barthel, Frederick (ORM) <Frederick.Barthel@va.gov>
Subject: RE: EEO Investigation - Statement Verification

Good afternoon Kurt – These statements are accurately captured from our telephone conversation. To provide further context to justify the business decision, overall 72.1 percent of new patients and 8.7 percent of established patients are waiting greater than 28 days for surgical service appointments at Martinez. This is not within the access guidelines of less than 28 days. For vascular surgery clinic, 30.8 percent of new patients are waiting greater than 28 days for an appointment. For vascular lab, 32 percent of new patients and 2 percent of established patients are waiting greater than 28 days for an appointment.

Thanks.

From: Barthel, Frederick (ORM)
Sent: Friday, May 10, 2019 9:59 AM
To: Graham, Timothy <Timothy.Graham@va.gov>
Subject: EEO Investigation - Statement Verification
Importance: High

Pauline Velez vs Northern California HCS
ORM Case #200P-0612-2018106247

Good Morning,

Below is a synopsis of our conversation from a few minutes ago. Your comments are listed in **Red**. **Please reply and state** whether or not the below comments are accurate; please make any changes necessary...

- Name: **Timothy Graham**

You Stated:

- We have 11 different sites. All are supervised by site managers, except for two that have associate director oversight.
- Out of the 11 sites, 3 of them had physician site managers; Dr.. Velez, Dr. Chun and Dr. Addagatala. Dr. Chun and Dr. Velez have already had their site manager duties removed, I'm not sure what the holdup is for Dr. Addagatala. Dr. Addagatala reports to another Associate Director, not me.
- The reason for removing Dr. Velez' site manager duties was strictly a business decision. Site manager duties are purely administrative. Dr. Velez is a vascular surgeon, and is needed to perform clinical activities. We suffer with long wait times for vascular surgery cases. Site manager duties (administration) by Dr. Velez was taking time away from the clinical work that needed to be performed. Further, administrative site managers earn far less than a vascular surgeon.

The answers you provide are subject to having solemnly sworn/affirmed that they are true and complete to the best of your knowledge and belief.

Kurt Barthel
EEO Investigator
Department of Veterans Affairs
Office of Resolution Management
Office (360) 759-1613
Fax (360) 759-1618

From: Graham, Timothy
Sent: Tuesday, May 14, 2019 8:54 AM
To: Barthel, Frederick (ORM) <Frederick.Barthel@va.gov>
Subject: RE: EEO Investigation - Information Requested

American (unknown beyond that) national origin on my mother's side. Native American (Cherokee) on my father's side.

From: Barthel, Frederick (ORM)
Sent: Tuesday, May 14, 2019 8:41 AM
To: Graham, Timothy <Timothy.Graham@va.gov>
Subject: RE: EEO Investigation - Information Requested

Thank you... I notice that on your affidavit, you mentioned your National Origin was Caucasian. Can you please advise your National Origin for me?

Kurt Barthel
EEO Investigator
Department of Veterans Affairs
Office of Resolution Management
Office (360) 759-1613
Fax (360) 759-1618

Thank you for contacting the Office of Resolution Management. Our goal is to provide you with exceptional customer service. Please take a moment to [complete a very brief survey](#) to let us know how my service was today.

[Click Here](#)

From: Graham, Timothy
Sent: Tuesday, May 14, 2019 8:40 AM
To: Barthel, Frederick (ORM) <Frederick.Barthel@va.gov>
Subject: RE: EEO Investigation - Information Requested

Hi Kurt –

1. What is your Race? Caucasian
 - a. Please state the Race you believe Complainant to be. How and When did you learn of this? Hispanic. I learned of complainant's race when I met her in person, on November 15, 2016, at which time she voluntarily provided me with her familial background, including her identification as Hispanic.

Please let me know if you have require any additional information.

Thank you,

Timothy H. Graham, J.D., LL.M.
Associate Director | East Bay Division
VA Northern California Health Care System
150 Muir Road - Mail Code 001/AD EBD

Martinez, CA 94553
925.372.2015 | timothy.graham@va.gov

From: Barthel, Frederick (ORM)
Sent: Tuesday, May 14, 2019 7:19 AM
To: Graham, Timothy <Timothy.Graham@va.gov>
Subject: EEO Investigation - Information Requested
Importance: High

Pauline Velez vs Northern California HCS
ORM Case #200P-0612-2018106247

Good Morning,

Dr. Velez has added an additional basis (Race) to her discrimination complaint. Please respond to the following questions regarding this issue.

1. What is your Race?
 - a. Please state the Race you believe Complainant to be.
 - b. How and When did you learn of this?

The answers you provide are subject to having solemnly sworn/affirmed that they are true and complete to the best of your knowledge and belief.

Kurt Barthel
EEO Investigator
Department of Veterans Affairs
Office of Resolution Management
Office (360) 759-1613
Fax (360) 759-1618